

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's Own Motion  
Into the Fitness of the Officers, Directors, Owners  
and Affiliates of Clear World Communications  
Corporation, U-6039, Including Individual  
Officers, Directors and Shareholders James,  
Michael, and Joseph Mancuso, and Into the  
Conduct of Other Utilities, Entities, or  
Individuals (including Christopher Mancuso)  
Who or That May Have Facilitated the Mancusos'  
Apparent Unlicensed Sale of  
Telecommunications Services.

Investigation 04-06-008  
(Filed June 9, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING  
DENYING MOTION TO STRIKE ALTER EGO EVIDENCE**

**1. Summary**

Clear World Communications Corporation (Clear World) moves to exclude evidence of alter ego liability or any other evidence seeking to impose personal liability on James, Michael or Joseph Mancuso (the Mancusos) on grounds that alter ego liability is not included in the remedies contemplated by the Scoping Memo. This ruling concludes that the Scoping Memo's references to reparations, fines or other penalties are sufficient to include evidence asserting a remedy of alter ego liability. Accordingly, the motion is denied.

**2. Background**

Clear World argues that the Consumer Protection and Safety Division (CPSD) is attempting unilaterally to add the issue of individual liability to this case. CPSD responds that alter ego liability is a remedy, not a cause of action.

CPSD argues that the owners of Clear World have interacted with this and other family-owned entities to the extent that the owners should be held jointly and severally liable with Clear World for violations of statutes and regulations. (*See, In re Titan Telecommunications*, Decision (D.) 03-01-079.)

### 3. Analysis

Clear World's owners were named by the Commission as individual respondents in this case. They have been ably represented by counsel (including in at least some transactions by one officer who is himself an attorney). They were or should have been aware that, if deemed necessary, individual liability could be asserted against them if reparations, fines or other penalties were assessed. The owners have had ample opportunity to mount their defense.

The Commission has noted that when a corporation is lawfully operated, the general rule is that only the corporate entity itself, and not its shareholders, officers, or other persons (legal or natural), bear liability for the consequences of the corporation's actions. (*See, In re Coral Communications*, D.01-04-035.) By contrast under the alter ego doctrine:

the corporate veil may be "pierced," i.e., individuals or other corporations acting on behalf of the corporation may be held liable for its debts and misdeeds. The doctrine requires that there be such a unity of interest and ownership between the corporation and the individuals or other corporation that the separate entities cease to exist, and that an inequitable result would follow if the doctrine were not applied. [Citations omitted.] (*Id.* at pp. 88-89.)

In *In re Titan Telecommunications*, *supra*, the Commission concluded that the legal standard for finding an individual to be the alter ego of a corporation is as stated in [\*Watson v. Commonwealth Ins. Co.\* \(1936\) 8 Cal.2d 61, 68:](#)

The two requirements are that there be such unity of interest and ownership that the separate personalities of the corporation and the individual no longer exist and that adherence to the fiction of separate existence would, under the circumstances, promote fraud or injustice. On the second score, it is sufficient that it appear that recognition of the acts as those of a corporation only will produce inequitable results.

It is well established that application of the alter ego doctrine is a question of fact and that determining its application depends heavily upon the facts of the individual case. (*Alexander v. Abbey of the Chimes* (1980) 104 Cal. App. 3d 39, 46.)

Courts have considered an array of factors in analyzing alter ego problems, including commingling of funds and other assets, the unauthorized diversion of corporate funds or assets to other than corporate uses, the treatment by an individual of the assets of the corporation as his own, the failure to obtain authority to issue stock or to subscribe to or issue the same, the failure to maintain minutes or adequate corporate records, sole ownership of all of the stock in a corporation by one individual or the members of a family, the employment of the same attorney, and the diversion of assets from a corporation by or to a stockholder or other person or entity, to the detriment of creditors.

(*Associated Vendors, Inc. v. Oakland Meat Co., Inc.* (1962) 210 Cal. App. 2d 825, 838-840.)

Several of these factors have been asserted by CPSD in this case. CPSD has the burden of proving these allegations, but Clear World has been on notice of these allegations for many months, if not years. Accordingly, this ruling denies the motion of Clear World to exclude evidence of alter ego liability.

**IT IS RULED** that the motion of Clear World Communications Corporation (Clear World) to exclude evidence of alter ego liability or any other evidence introduced for the purpose of imposing personal liability upon Clear World's owners is denied.

Dated November 10, 2004, at San Francisco, California.

/s/ GLEN WALKER

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Glen Walker  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Strike Alter Ego Evidence on all parties of record in this proceeding or their attorneys of record.

Dated November 10, 2004, at San Francisco, California.

/s/ FANNIE SID  
Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.